

RESPONSE

The examiner states in the Office Action Summary that claims numbered 1-28 are pending in the application; claims numbered 1-16, 21-26 and 28 are rejected; claims numbered 17-20 and 27 are objected to. The examiner further states claims numbered 4-13, 17-20, and 27 are novel and unobvious over the prior art of record or any combination thereof.

(1) The examiner states the application fails to comply with the requirements of 37 C.F.R. §1.821 through §1.825 because the amino acid sequence at page 23, line 23 through page 24, line 1 of the specification is subject to the sequence disclosure rules, but is not listed in the Sequence Listing filed July 21, 2003. Further, a SEQ ID NO needs to be inserted into the specification following the sequence.

Applicant has amended the specification to include a SEQ ID NO for the sequence noted. Applicant encloses herewith a computer readable form (CRF) copy of the sequence listing, a paper copy of the Sequence Listing, as well as amendment directing its entry into the specification. Support for this amendment is on page 23, line 23 through page 24, line 1 of the specification as originally filed. Applicant states the content of the paper and computer readable copies are the same and include no new matter. Applicant notes an amendment has *not* been made to the originally filed Sequence Listing or Computer Readable Form. The present submission is in an addition to the Sequence Listing and Computer Readable Form presently in the application.

(2) The examiner states the applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. §119 because the application does not contain a specific reference to the prior application(s) in the first sentence of the specification.

Applicant has amended the specification to incorporate the required reference.

(3) The examiner has objected to claims numbered 9 and 10 because claim 9 does not end with a period and claim 10, line 3 requires the “a” be replaced with “an” (first occurrence).

Applicant has amended claims numbered 9 and 10 to correct the above-noted errors.

(4) The examiner states claims numbered 1-16, 21-26, and 28 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application Serial No.: 10/307,678 (the “678” application, Attorney Docket No. 6440.200-US). The conflicting claims are not identical, however they are patentably indistinct from each other because the claims of the ‘678 application anticipate the present claims.

Applicant has amended claims numbered 1, 14, 21 and 22, which Applicant believes obviates the provisional obviousness-type double patenting rejection. Applicant respectfully requests reconsideration and withdrawal of the provisional rejection.

(5) The examiner states claims 1-3, 14-16, 21-24, and 26 are rejected under 35 U.S.C. §102(b) as being anticipated by Jeong et al. (J. Controlled Release, Vol. 1, pages 57-66, 1984).

Applicant has amended claim 1, thereby obviating the examiner’s rejection under 35 U.S.C. §102(b).

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b).

(6) The examiner states claim number 25 is rejected under 35 U.S.C. §103(a) as being obvious over the Jeong et al publication as applied against claims 1-3, 14-16, 21-24 and 26, and further in view of WO 99/21888.

Applicant has amended claim 1, thereby obviating the examiner’s rejection under 35 U.S.C. §103(a).

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

(7) The examiner states claim number 28 is rejected under 35 U.S.C. §103(a) as being obvious over the Jeong et al publication as applied against claims 1-3, 14-16, 21-24 and 26.

Applicant has amended claim 1, thereby obviating the examiner’s rejection under 35 U.S.C. §103(a).

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

(8) The examiner states claims numbered 17-20 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has amended the base claim thereby obviating the examiner's objection. Applicant respectfully requests reconsideration and withdrawal of the objection to claims numbered 17-20 and 27.

The examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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Rosemarie R. Wilk-Orescan
Registration Number 45,220
Novo Nordisk Inc.
100 College Road West
Princeton, NJ 08540
(609) 987-5969

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